



are we having fun yet?
Heather Podesta to: Bob Perciasepe

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History: This message has been forwarded.

Bob,

Apologies for not being on the call last night – was on an airplane. We are grateful for your efforts working with Region 6 to reach consensus on the steps needed to address the Goliad project.

UEC wants to continue working with EPA and have offered to go above and beyond what is required by law to move this project forward. That said, UEC is frustrated that nearly 4 months after our first meeting, we still do not have consensus from EPA on the steps UEC needs to take. In our view, the steps necessary to satisfy the criteria to receive an aquifer exemption are clear and already well established by EPA regulations and Guidance 34, as well as court cases.

We encourage your team to review the agency's filings from *Western Nebraska Resources Council v. EPA*, (943 F. 2nd, 867, 8th Cir. Ct., 1991), a case that addresses the steps that must be taken to receive an aquifer exemption. In that case, an environmental organization challenged EPA's approval of a 3,000 acre aquifer exemption in Nebraska. As part of its defense, EPA said that the project satisfied the criteria in 40 C.F.R. § 146.4 by showing that "no one was identified as currently using water for human consumption from the Chadron Aquifer in the specific lateral boundary in the entire 3,000 acre area the State has requested for exemption." EPA noted that this conclusion was reached following an extensive water well survey and an inventory of wells – the same steps UEC took before applying to TCEQ for an aquifer exemption for the Goliad project. EPA also stated that "the fact that persons may use drinking water drawn from the aquifer outside of the proposed exemption boundary is obviously irrelevant to section 146.4(a), which looks only to the use of the exempted portion of the aquifer." Attached is the EPA filing for your reference.

We also understand the Texas Commission on Environmental Quality (TCEQ) is starting to reengage on this issue and that TCEQ is likely sending a letter to Region 6 to express concern about the delay and the lack of communication on this matter. They may also be considering a lawsuit.

Again, we greatly appreciate your personal involvement in this issue. We are hopeful, as you suggested, that we can reach agreement on a path forward in the coming weeks.

Best,

Heather
202/468-4403